

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JUAN H. MERCADO,)
Petitioner) CIVIL NO. 04-10043-RWZ
)
)
v.)
)
)
UNITED STATES OF AMERICA,)
Respondent)
)

**Government's Motion For Leave To File
Late Its Memorandum In Opposition To
Petitioner's Motion Under 28 U.S.C. § 2255**

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro, Assistant U.S. Attorney, hereby files this motion to file late its memorandum in opposition to the petitioner's motion under 28 U.S.C. § 2255.

In support of this motion, the government states that the petitioner's motion was filed on January 8, 2004 and that, on January 29, 2004, the Court allowed the government's motion to extend the time within which to file its memorandum to March 22, 2004. The undersigned government counsel researched and wrote the government's memorandum by March 20 but needed to edit it on March 22 prior to filing it. Government counsel was unable to finish the edits prior to the close of business on March 22 due to trial preparation in the case of United States v. Luis Tejaca-Pena, a five-defendant case scheduled for trial before Judge Saris on March 29 (in which two defendants pleaded guilty on March 19 and one defendant pleaded guilty on March 22), and a contested sentencing hearing on March 22 in the case of United

States v. Anthony Carrillo before Senior Judge Lasker. The government is, therefore, filing its memorandum one day late on March 23, 2004.

Based on the foregoing, the government respectfully requests that the Court grant leave for the government to file late its memorandum in opposition to the petitioner's motion under 28 U.S.C. § 2255.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:


Michael J. Pelgro
Assistant U.S. Attorney

DATED: March 23, 2004.

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Juan H. Mercado
Inmate No. 24215-038
FCI Ray Brook
P.O. Box 9007
Ray Brook, NY 12977

This 23rd day of March 2004.


MICHAEL J. PELGRO
ASSISTANT UNITED STATES ATTORNEY